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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

**IN RE: CATHODE RAY TUBE (CRT)
ANTITRUST LITIGATION**

This Document Relates to:

*Crago d/b/a Dash Computers, Inc., et al., on
its own behalf and on behalf of similarly
situated parties,*

Plaintiffs,

v.

Mitsubishi Electric Corporation, et al.,

MDL No. 1917

Master File No. 3:07-cv-05944-JST
Case No. 3:14-cv-02058-JST

**REPLY IN SUPPORT OF MITSUBISHI
ELECTRIC DEFENDANTS' MOTION
TO SET TRIAL DATE**

Judge: Hon. Jon S. Tigar
Court: Courtroom 9, 19th Floor
Date: 10 a.m., June 9, 2016

REDACTED VERSION OF DOCUMENT
SOUGHT TO BE FILED UNDER SEAL

1 In moving for a May 30, 2017 trial date in the Direct Purchaser Plaintiff (“DPP”) action,
2 the Mitsubishi Electric Defendants¹ sought to balance the interest in a prompt trial with the
3 reality that fact discovery is not concluded and expert discovery, the litigation of summary
4 judgment, *Daubert*, and *in limine* motions, and the submission of other pretrial filings have not
5 yet begun. The DPPs’ response contains a number of misstatements, but for brevity’s sake, in
6 this reply the Mitsubishi Electric Defendants will focus on the DPPs’ mischaracterization of the
7 substantial expert discovery that lies ahead in the case. While the DPPs submitted an expert
8 report on the issue of class certification, they have *not* disclosed anything close to a model for
9 calculation of damages in this case, and their proposed pre-trial schedule asks the Court to treat
10 the Mitsubishi Electric Defendants unfairly by imposing a highly compressed timeframe for the
11 Mitsubishi Electric Defendants to analyze and respond to the DPPs’ experts, far less than was
12 allowed in the comparable DAP matters.

13 **First**, the DPPs wrongly suggest that somehow they already have provided the Mitsubishi
14 Electric Defendants with expert damages discovery. (Dkt. 4616 (the “Opposition”) at 3.) The
15 DPPs cite the work of Dr. Jeffrey Leitzinger, their class certification expert, [REDACTED]

16 [REDACTED]
17 [REDACTED]

18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]

24 ¹ “Mitsubishi Electric Corporation,” “Mitsubishi Electric US, Inc.,” and “Mitsubishi Electric Visual
25 Solutions America, Inc.” are hereinafter and collectively referred to as “the Mitsubishi Electric
26 Defendants.” The Court granted summary judgment in favor of Mitsubishi Electric US, Inc. and
27 Mitsubishi Electric Visual Solutions America, Inc. in the DAP cases after years of discovery produced no
evidence of their involvement in the alleged conspiracy. (Dkt. 4559.) Discovery remains ongoing in the
DPP action.

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED] the Mitsubishi
7 Electric Defendants are not in a position to meet those calculations with their own expert
8 opinion. Nor would a deposition of Dr. Leitzinger on class certification issues, [REDACTED]
9 [REDACTED] have advanced expert discovery one iota, and the DPPs'
10 suggestion that the Mitsubishi Electric Defendants are to blame for not availing themselves of
11 damages discovery [REDACTED] is
12 incorrect. In fact, the DPPs have yet to respond to the Mitsubishi Electric Defendants' July 2015
13 interrogatory requesting that the DPPs identify experts. Instead of being nearly completed,
14 expert discovery here has not even started.

15 *Second*, with expert discovery not yet started, the DPPs' proposal that Mitsubishi Electric
16 compress its response to Dr. Leitzinger, if he is the expert the DPPs use, and any other expert
17 witnesses they disclose, into a 45-day time frame is unfair. In the DAP and IPP cases, the pre-
18 trial schedule allowed nearly four months for the defendants to respond to expert discovery.
19 (*See, e.g.*, Dkt. 2459.) While the prior DAP proceedings may streamline expert discovery, the
20 work that remains to respond to DPPs' undisclosed experts is substantial. The DPPs' proposal
21 requires that reports and voluminous factual support be digested, depositions scheduled and
22 taken, and responsive reports prepared and finalized, on an as-of-yet undisclosed number of
23 topics, in a fraction of the time previously permitted for the same activities. The DPPs have had
24 from the beginning of the case until some future point to develop expert proof. The Mitsubishi
25 Electric Defendants should not be compelled to respond in 45 days.

26 * * *

1 In sum, the Mitsubishi Electric Defendants have proposed an ambitious yet reasonable
 2 pre-trial schedule leading to their proposed May 30, 2017 trial date, not quite three months later
 3 than the March 6 date proposed by the DPPs. The DPPs' proposed pre-trial schedule,
 4 particularly as it relates to expert discovery, is unrealistic and unfair in that it pretends that
 5 substantial expert discovery has already taken place when the DPPs have yet to make the most
 6 basic of expert damages disclosures. The Mitsubishi Electric Defendants respectfully ask that
 7 their trial-setting Motion be granted.
 8

9 Dated: May 4, 2016

By: /s/ Terrence J. Truax

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 US, Inc., and Mitsubishi Electric Visual
 Solutions America, Inc.*

CERTIFICATE OF SERVICE

I certify that on May 4, 2016, I electronically filed the foregoing Mitsubishi Electric Defendant' Reply In Support of Their Motion To Set Trial Date with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all attorneys of record.

I certify under penalty of perjury that the foregoing is true and correct.

DATED this 4th day of May, 2016.

By: /s/ Michael T. Brody

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